

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: HOWARD M. PETERS
PETERS, VERNY, JONES & BIKSA, LLP
385 SHERMAN AVENUE, SUITE 6
PALO ALTO, CALIFORNIA 94306-1840

PETERS VERNY
JOVAN & BIKSA

FEB 10 2000

PCT

WRITTEN OPINION

2/10
DOCKETED

Date of Mailing
(day/month/year) 07 FEB 2000

RECEIVED

Applicant's or agent's file reference 3596.02-1 PCT		REPLY DUE within ONE months from the above date of mailing
International application No. PCT/US99/00598	International filing date (day/month/year) 11 JANUARY 1999	Priority date (day/month/year) 12 JANUARY 1998
International Patent Classification (IPC) or both national classification and IPC IPC(7): C10L 1/18, 1/22 and US Cl.: 44/302, 411, 412, 447, 452		
Applicant WENZEL, DEBORAH		

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step or industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application
3. The applicant is hereby invited to reply to this opinion.

When?	See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).
How?	By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.
Also	For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 12 MAY 2000

Name and mailing address of the IPEA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231
Facsimile No. (703) 305-3230

Authorized officer
HELEN MCALPIN
Telephone No. (703) 308-0661

WRITTEN OPINION

International application No.

PCT/US99/00598

I. Basis of the opinion

1. This opinion has been drawn on the basis of (*Substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".*):

- the international application as originally filed.
- the description, pages 1-83, as originally filed.
pages NONE, filed with the demand.
pages NONE, filed with the letter of _____
- the claims, Nos. NONE, as originally filed.
Nos. NONE, as amended under Article 19.
Nos. 1-29, filed with the demand.
Nos. NONE, filed with the letter of _____
- the drawings, sheets/fig 1-10, as originally filed.
sheets/fig NONE, filed with the demand.
sheets/fig NONE, filed with the letter of _____

2. The amendments have resulted in the cancellation of:

- the description, pages NONE
- the claims, Nos. NONE
- the drawings, sheets/fig NONE

3. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box. Additional observations below (Rule 70.2(c)).

4. Additional observations, if necessary:

NONE

WRITTEN OPINION

International application No.

PCT US99-00598

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. STATEMENT**

Novelty (N)	Claims 1-29	YES
	Claims NONE	NO
Inventive Step (IS)	Claims NONE	YES
	Claims 1-29	NO
Industrial Applicability (IA)	Claims 1-29	YES
	Claims NONE	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-29 lack an inventive step under PCT Article 33(3) as being obvious over Schon et al in view of Itow et al. Schon et al disclose stable microemulsion fuel compositions comprising (a) a hydrocarbon fuel such as diesel fuel, jet fuel, gasoline, or fuel oil; (b) water; and (c) a cosurfactant combination of methanol and a fatty acid partially neutralized by a nitrogenous base. The fatty acid component may be saturated or unsaturated having 8 to 22 carbon atoms and the nitrogenous base includes ammonia, amines, and alkanolamines. The claimed additive is taught when alcohol component (a) is methanol and component (c) is a fatty acid in combination with a source of nitrogen with optional component (b) not present. Itow et al teach the addition of higher alcohols having 10 to 16 carbon atoms as a mutual solvent for petroleum fuel blends containing methanol. The higher alcohols of Itow meet the claim limitation for component (b) and it would have been obvious to have combined the methanol fuel compositions.

Claims 1-29 lack an inventive step under PCT Article 33(3) as being obvious over Wenzel et al. Wenzel et al disclose fuel compositions for use in internal combustion engines comprising a water-in-oil emulsion of (a) a hydrocarbon fuel such as gasoline, diesel fuel or fuel oil; (b) water; (c) a water-soluble alcohol such as methanol, ethanol, isopropanol, or mixtures; and (d) a combination of surface-active agents to provide a clear composition which is stable against phase separation over a wide range of temperatures. The surface active agents include (i) a saturated or unsaturated fatty acid salt having 12-18 carbon atoms wherein the salt may be an ammonium salt and (ii) an ethylene oxide condensation or esterification product. Wenzel et al meet the claim limitations of the additive combination.

— NEW CITATIONS —

US 4,083,698 A (WENZEL et al) 11 April 1978, see col. 1, line 15 to col. 8, line 21.
(Continued on Supplemental Sheet)

WRITTEN OPINION

International application No.

PCT/US99/00598

VI. Certain documents cited**1. Certain published documents (Rule 70.10)**

Application No. Patent No.	Publication Date (day/month/year)	Filing Date (day/month/year)	Priority date (valid claim) (day/month/year)
US. A. 5,968,211	19 OCTOBER 1999	26 MAY 1998	

2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure	Date of non-written disclosure (day/month/year)	Date of written disclosure referring to non-written disclosure (day/month/year)

WRITTEN OPINION

International application No.

PCT US99-00598

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 1-29 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because the claims are indefinite for the following reason(s):

In claim 1, the phrase "having a viscosity similar to that of the liquid combustible fuel" is unclear because the term "similar" is relative and the liquid combustible fuel is not set forth.

In claim 1, "aromatic organic compounds" and "compounds of phenanthrene" are overlapping in scope.

In claim 1, the phrase "and other organic diacids" is unclear.

In claim 1, the parenthetical phrase "(e.g., alkyl or alkenyl)" is improper claim language.

In claim 4, the claim ends in a comma which is improper.

In claims 17-19, 23-25 and 29, "26° aqueous ammonia" is unclear.

WRITTEN OPINION

International application No.

PCT US99-00598

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

V. 2. REASONED STATEMENTS - CITATIONS AND EXPLANATIONS (Continued):

US 4,384,872 A (KESTER et al) 24 May 1983, see col. 1, line 54 to col. 3, line 48.

US 4,527,995 A (ITOW et al) 09 July 1985, see col. 1, line 36 to col. 6.

US 5,004,479 A (SCHON et al), 02 April 1991, see col. 3, line 40 to col. 5, line 15.